



STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF)
NEXTLINK LONG DISTANCE SERVICES)
INC. FOR AUTHORITY TO PROVIDE)
INTEREXCHANGE TELECOMMUNICA-)
TIONS SERVICES THROUGHOUT NEW)
JERSEY)

ORDER OF APPROVAL

DOCKET NO. TE99080636

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated August 23, 1999 NEXTLINK Long Distance Services, Inc. (Nextlink or Petitioner) filed a petition with the Board of Public Utilities (Board) requesting authority to provide resale and facilities-based long distance, operator services, and prepaid calling card telecommunications services throughout New Jersey. Petitioner also submitted responses to Staff interrogatories in letters dated November 23 and December 29, 1999 and February 2, 2000. Finally, on February 4, 2000, NEXTLINK submitted its tariff (Docket TT00020104). By letter dated December 29, 1999, Petitioner notified the Board that it had retained local counsel, Martin C. Rothfelder, located at 635 Central Avenue, Westfield, New Jersey 07090.

According to the petition, NEXTLINK Long Distance was incorporated under the laws of the State of Washington in February of 1999, and its principal offices are located at 500 18th Avenue, N.E., Suite 2200, Bellevue, Washington 98004. NEXTLINK Long Distance is a wholly owned subsidiary of NEXTLINK Communications Inc., a publicly traded corporation. Petition at 2. Petitioner submitted copies of the Articles of Incorporation, a Certificate of Good Standing and its New Jersey Certificate of Authority to operate as a foreign corporation. Id. At 3, Exhibits B, C and Letter dated December 29, 1999 at Exhibit 2. Petitioner stated that its parent, NEXTLINK Communications, through various corporate subsidiaries is currently authorized to provide local and long distance telecommunications services in the States of Arizona, California, Colorado, Delaware, Florida, Illinois, Kansas, Kentucky, Missouri, Indiana, Georgia, Maryland, New Jersey, Nevada, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Texas, Wisconsin, and Washington. Although its New Jersey operating subsidiary, NEXTLINK New Jersey, Inc., currently has authority to provide local and long distance service in New Jersey, the instant filing seeks authority to provide long distance telecommunications service under a separate corporate entity. Petition at 4. In addition, by letter dated December 29, 1999, Petitioner stated that NEXTLINK Communications has approximately 350,000 lines and had 3,254 employees. Letter at 3.

In its petition, NEXTLINK Long Distance advised that it seeks statewide authority to provide facilities-based and resold long distance, operator services, and prepaid credit card

telecommunications services, in New Jersey. Petition at 3. Petitioner stated that initially it plans to offer these services to business customers in the State of New Jersey. See November 23, 1999 letter.

Petitioner requested a waiver of N.J.A.C. 14:1-4.3 and 14:1-5.15 (a) which require that books and records be maintained in accordance with the Uniform System of Accounts (USOA) and within New Jersey, respectively. Letter dated December 29, 1999 at Exhibits 3,4. Petitioner stated that in the interest of efficiency and for cost reasons it requests to maintain its books and records in accordance with Generally Accepted Accounting Principles (GAAP) outside of New Jersey in Petitioner's corporate offices in Bellevue, Washington.

NEXTLINK Long Distance asserted that approval of its petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petition at 3.

NEXTLINK Long Distance stated that it is technically and managerially qualified to operate and manage its proposed telecommunications operations in New Jersey. Petition at 4. With regard to its managerial qualifications, NEXTLINK Long Distance submitted the biographies of its senior management team, which according to NEXTLINK Long Distance, demonstrate extensive experience in telecommunications service provisioning.

In support of its financial qualifications, NEXTLINK Long Distance stated that it is financially qualified to provide the proposed services in New Jersey. Id. at 5. NEXTLINK Long Distance submitted two years of income and expense statements of its parent corporation. December 29, 1999 letter, Exhibit 3. In its petition, NEXTLINK Long Distance stated that it will have the financial resources of its parent NEXTLINK Communications available to it, in addition to its own sufficient assets.

DISCUSSION

On February 8, 1996 the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered section of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State of local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of NEXTLINK Long Distance entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to a demonstration of financial, technical and managerial integrity.

In considering this application, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services, at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:-2-21.16(b)(1) and (3).

Therefore, having reviewed NEXTLINK Long Distance's petition and the information supplied in support thereof, the Board FINDS that NEXTLINK Long Distance has demonstrated that it possesses the requisite financial, technical and managerial resources which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES NEXTLINK Long Distance to provide facilities-based long distance service in New Jersey subject to approval of its tariff (Docket TT00020104); submission of pro forma income statements for each of the first 2 years of operations and actual or estimated balance sheets for two years specifically for NEXTLINK Long Distance as of the beginning and end of each year of said two-year period pursuant to N.J.A.C. 14:1-5.11. The Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief, pursuant to N.J.A.C. 14:1-1.2, from its requirements to maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board, within 48 hours, its books and records when and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of those books and records, the Board APPROVES the NEXTLINK Long Distance request for the exemption from maintaining its books and records in New Jersey and under the USOA.

DATED: April 10, 2000

BOARD OF PUBLIC UTILITIES
BY:

(signed)
HERBERT H. TATE
PRESIDENT

(signed)
CARMEN J. ARMENTI
COMMISSIONER

(signed)
FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)
EDWARD D. BESLOW
ACTING BOARD SECRETARY